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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,412	09/30/2003	Ming-Shun Yang	BHT-3245-5	2685

7590 11/19/2008
BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

EXAMINER

COLE, ELIZABETH M

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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11/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/673,412	YANG, MING-SHUN	
	Examiner	Art Unit	
	Elizabeth M. Cole	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-24 and 34-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-24, 34-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 34-38 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filed does not provide support for the limitation that there are a "predetermined number of loops connected to and spaced apart long peripheral edges of each of the upper layer, the middle layer and the lower layer". The specification provides support for loops on the edges of the cover and shows such loops in figure 3, but does not provide support for loops on each of the upper layer, the lower layer and the middle layer.

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 20-24, 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnan, U.S. Patent No. 5,239,037 in view of Brown et al, U.S. Patent No. 6,100,208. Krishnan discloses a waterproof, breathable material which can comprise three layers of woven fabric wherein the central layer comprises a polyamide woven layer which is coated with a breathable polyurethane material and which is adhered to the other two fabric layers by a breathable polyurethane material. See Example 8. The polyurethane is between the fabric layers and bonds the layers together. Krishnan differs from the claimed invention because Krishnan does not teach the particularly

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claimed outer layers of the fabric. Brown discloses a protective fabric which may comprise first and second nonwoven outer layers and a water impermeable, vapor permeable center layer. See abstract. The first and second nonwoven outer layers may comprise bicomponent fibers and may further comprise polyolefins, polyamides and polyesters. See col. 7, lines 54-56. The water impermeable, vapor permeable center layer may comprise polyurethane films, (col. 9, line 64) as well as polyolefin films such as polyethylene and polypropylene films, (col. 10, lines 7-22). The layers may be bonded by ultrasonic bonding, thermal point bonding and/or adhesive bonding. See col. 11, lines 29-33. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed the particular outer layers of Brown in the laminate of Krishnan, in view of the teaching of Brown that such fabric layers were known in the art to be useful for forming laminated fabrics which comprise a breathable, polyurethane central layer. With regard to new claims 34-38, Krishnan discloses a waterproof, breathable protective material but does not disclose loops. Brown discloses a protective fabric which can be used as an automobile cover or tarpaulin or to cover outdoor furniture or tools. It is noted that it is conventional to provide loops on such protective fabrics in order to enable them to be secured onto the material they are to cover. Therefore, it would have been obvious to one of ordinary skill in the art to have provided loops on the protective fabric, in order to enable it to be secured and removed from various materials.

3. Applicant's arguments filed 8/18/08 have been fully considered but are not persuasive.

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4. Applicant argues that Krishnan does not teach the middle layer has a first surface directly connected to the upper layer and a second surface directly connected to the lower layer. However, Krishnan teaches a first woven fabric layer which is coated with a breathable polyurethane which corresponds to the middle layer. This layer than is directly connected to upper and lower fabric layers by a breathable polyurethane adhesive. The breathable polyurethane adhesive corresponds to the claimed breathable polyurethane layers which are located between the middle layer and the upper and lower layers. Krishnan's only difference from the claimed invention is that it does not disclose that the upper and lower fabric layers are nonwoven but instead teaches employing woven layers. Brown teaches that nonwoven layers were known in the art as useful for forming the outer fabric layers in protective fabrics which comprise a breathable polyurethane central layer. The person of ordinary skill in the art would have recognized that nonwoven layers were a known alternative fabric material for use as the outer layer in protective laminates. With regard to the new claims, since Brown clearly teaches employing such protective fabrics as car covers, outdoor furniture covers, tarpaulins, etc., it would have been obvious to have added loops to allow the covers to be secured to items to be covered by tying the cover onto the items to be covered with ropes, etc.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

The examiner's supervisor Rena Dye may be reached at (571) 272-3186.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.

/Elizabeth M. Cole/
Primary Examiner, Art Unit 1794

e.m.c